

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DUNG VU TRAN,
Plaintiff,
v.
ERIK BONNAR, et al.,
Defendants.

Case No. 18-cv-02643-HSG
ORDER TO SHOW CAUSE
Re: Dkt. No. 1

A federal district court is authorized to grant a writ of habeas corpus when a petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3).

Petitioner Dung Vu Tran, who is in the custody of the Department of Homeland Security (“DHS”), has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. *See* Dkt. No. 1. He alleges that he has been detained at the Rio Cosumnes Correctional Center in Elk Grove, California for over 180 days. Petitioner alleges his continued detention violates his Fifth Amendment right to due process. *See* Dkt. No. 1 ¶ 9 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)).

Petitioner names four individuals as Respondents: Acting San Francisco Field Office Director of United States Immigration and Customs Enforcement (“ICE”) Erik Bonnar; Acting Director of ICE Thomas D. Homan; DHS Secretary Kirstjen Nielsen; and Sheriff of the Sacramento County Sheriff’s Department Scott Jones, who oversees the Rio Cosumnes Correctional Center where Petitioner is detained.¹ *See* Dkt. No. 1 ¶ 5.

¹ Under 28 U.S.C. § 2241, the proper respondent for a habeas corpus petition is the person “with the ability to produce the prisoner’s body before the habeas court.” *Rumsfeld v. Padilla*, 542 U.S.

1 Having considered the pleadings and documents in this matter, and good cause having
2 been shown by Petitioner, the Court **ORDERS** Respondents to Show Cause:

3 1. By May 24, 2018, Respondents shall respond by answering the allegations and
4 showing cause why a writ of habeas corpus should not issue, or by filing a motion to dismiss on
5 procedural grounds;


6 2. Petitioner's traverse, opposition, or statement of non-opposition shall be filed by
7 May 31, 2018; and

8 3. Any reply by Respondents shall be filed by June 7, 2018.

9 The Clerk of the Court shall serve a copy of this Order, the petition, and all attachments
10 thereto, on Respondents and shall serve copies of these documents to the U.S. Attorney for the
11 Northern District of California.

12 **IT IS SO ORDERED.**

13 Dated: 5/9/2018

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15 HAYWOOD S. GILLIAM, JR.
16 United States District Judge
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27 426, 435 (2004). The "default rule" is that the "warden of the facility where the prisoner is being
28 held" is the proper respondent where the petitioner is challenging present physical confinement,
"not the Attorney General or some other remote supervisory official." *Id.* Petitioner alleges Scott
Jones has legal custody of and authority to release Mr. Tran. *See* Dkt. No. 1 ¶ 5.